

010204 22912 U.S. PTO

Attorney's Docket No.: ETE5342.11A2

16018 U.S. PTO  
10/751264  
010204

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

MAIL STOP PATENT APPLICATION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22213-1450

NEW APPLICATION TRANSMITTAL

Transmitted herewith for filing is the patent application of Inventor(s):

LOUISE E. MOSER; PETER M. MELLIAR-SMITH; WENBING ZHAO

For (title):

CONSISTENT TIME SERVICE FOR FAULT-TOLERANT DISTRIBUTED  
SYSTEMS

1. Type of Application

(check all applicable)

- ☒ Utility
- ☐ Design
- ☐ Plant
- ☐ Divisional
- ☐ Continuation
- ☐ Continuation of PCT designating US
- ☐ Continuation-in-part (CIP)

CERTIFICATION UNDER 37 CFR 1.10

I hereby certify that this New Application Transmittal and the documents referred to as enclosed therein are being deposited with the United States Postal Service on 02 JANUARY 2004 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV352304221US addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

John P. O'Banion

(Type or print name of person mailing paper)

(Signature of person mailing paper)

NOTE: Each paper or fee referred to as enclosed herein has the number of the "Express Mail" label placed thereon prior to mailing. 37 CFR 1.10(b).

**2. Papers Enclosed Which Are Required For Filing Date Under 37 CFR 1.53(b) (Regular) or 37 CFR 1.153 (Design) Application**

28 Pages of specification

8 Pages of claims

1 Pages of Abstract

8 Sheets of drawing

X formal

— informal

— The enclosed drawing(s) include photograph(s), and there is also attached a "PETITION TO ACCEPT PHOTOGRAPH(S) AS DRAWING(S)." 37 C.F.R. 1.84(b).

**3. Additional papers enclosed**

— Preliminary Amendment

— Information Disclosure Statement

— Form PTO - 1449

— Citations

— Authorization of Attorney(s) to Accept and Follow Instructions from Representative

— Special Comments

— Other (SPECIFY)

**4. Declaration Or Oath**

— Enclosed

X Not Enclosed. Application is made by a person authorized under 37 CFR 1.41(c) on Behalf of all of the above named inventor(s).

(The declaration or oath, along with the surcharge required by 37 CFR 1.16(e) can be filed subsequently).

**5. Inventorship Statement**

The inventorship for all the claims in this application are:

X The same

or

— Are not the same. An explanation, including the ownership of the various claims at the time the last claimed invention was made,

- ☐ is submitted.  
☐ will be submitted.

**6. Language**

- ☒ English  
☐ non-English  
☐ the attached translation is a verified translation. 37 CFR 1.52(d).

**7. Assignment**

- ☒ An assignment of the invention to: ETERNAL SYSTEMS, INC.  
☐ is attached. A separate "ASSIGNMENT COVER LETTER ACCOMPANYING NEW PATENT APPLICATION" is also attached.  
☒ will follow.

**8. Benefit of Prior U.S. Application(s) (35 U.S.C. 119(e), 120 or 121)**

NOTE: "In order for an application to claim the benefit of a prior filed copending national application, the prior application must name as an inventor at least one inventor named in the later filed application and disclose the named inventor's invention claimed in at least one claim of the later filed application in the manner provided by the first paragraph of 35 U.S.C. 112." 37 CFR 1.78(a).

NOTE: "In addition, the prior application must be (1) complete as set forth in § 1.51, or (2) entitled to a filing date as set forth in § 1.53(b) and include the basic filing fee set forth in § 1.16, or (3) entitled to a filing date as set forth in § 1.53(b) and have paid therein the processing and retention fee set forth in § 1.21(l) within the time set forth in § 1.53(d)." 37 CFR 1.78(a).

NOTE: "Any nonprovisional application claiming the benefit of one or more prior filed copending provisional applications must contain or be amended to contain in the first sentence of the specification following the title a reference to each such prior provisional application, identifying it as a provisional application, and including the provisional application number (consisting of the series code and serial number) and filing date." 37 CFR 1.78(a)(4).

NOTE: "Any nonprovisional application claiming the benefit of one or more prior filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain in the first sentence of the specification following the title a reference to each such prior application, identifying it by application number (consisting of the series code and serial number) and filing date or international application number and international filing date and indicating the relationship of the applications. Cross-references to other related applications may be made where appropriate. (See §1.14(b))." 37 CFR 1.78(2).

☒ Applicant(s) hereby claim(s) the benefit of the filing date of the following prior U.S. Application(s):

- (a) Application History (title as originally filed and as last amended, serial number, and filing date of all prior applications):

Title: CONSISTENT TIME SERVICE FOR FAULT-TOLERANT DISTRIBUTED SYSTEMS  
Ser. No.: 60/437,762  
Filed: 01/03/2003

- (b) Name of applicant(s) (as originally filed and as last amended), and current correspondence address of applicant(s):

LOUISE E. MOSER  
P.O. BOX 13963  
SANTA BARBARA, CA 93107

PETER M. MELLIAR-SMITH  
P.O. BOX 13963  
SANTA BARBARA, CA 93107

WENBING ZHAO  
7190 DAVENPORT ROAD, #105  
GOLETA, CA 93117

NOTE: The proper reference to a prior filed PCT application which entered the U.S. national phase is the U.S. serial number and the filing date of the PCT application which designated the U.S.

NOTE: (1) Where the application being transmitted adds subject matter to the International Application then the filing can be as a continuation-in-part or (2) it is desired to do so for other reasons, then the filing can be as a continuation.

NOTE: The deadline for entering the national phase in the U.S. for an international application was clarified in the Notice of April 28, 1987 (1079 O.G. 32 to 46) as follows:

"The Patent and Trademark Office considers the international application to be pending until the 22nd month from the priority date if the United States has been designated and no Demand for International Preliminary Examination has been filed prior to the expiration of the 19th month from the priority date and until the 32nd month from the priority date if a Demand for International Preliminary Examination which elected the United States of America has been filed prior to the expiration of the 19th month from the priority date, provided that a copy of the international application has been communicated to the Patent and Trademark Office within the 20 or 30 month period respectively. If a copy of the international application has not been communicated to the Patent and Trademark Office within the 20 or 30 month period, respectively, the international application becomes abandoned as to the United States 20 or 30 months from the priority date, respectively. These periods have been placed in the rules as paragraph (h) of § 1.494 and paragraph (i) of § 1.495. A continuing application under 35 U.S.C. 365(c) and 120 may be filed anytime during the pendency of the international application."

## 9. Fee Calculation (37 CFR 1.16)

CLAIMS AS FILED									
		Number filed		Number Extra			Rate		Basic Fee \$ 770
Total									
Claims 37 CFR 1.16(c)		43	- 20	=	23	X	\$18	=	414
Independent									
Claims (37 CFR 1.16(b))		3	- 3	=	0	X	\$86	=	
Multiple dependent claim(s), if any (37 CFR 1.16(d))							+	\$290	=

Filing Fee Calculation \$ 1184

## 10. Small Entity Statement

X Applicant qualifies as a small entity under 37 CFR 1.9 and 1.27

Filing Fee Calculation (50% of above) \$ 592

**11. Fee Payment Being Made At This Time**

☒ Not Enclosed

☐ No filing fee is to be paid at this time. (This and the surcharge required by 37 CFR 1.16(e) can/will be paid subsequently.)

☐ Enclosed

☐ basic filing fee \$ \_\_\_\_\_

☐ recording assignment (\$40.00; 37 CFR 1.21(h)) \$ \_\_\_\_\_

☐ petition fee for filing by other than all the inventors or person on behalf of the inventor where inventor refused to sign or cannot be reached. (\$130.00; 37 CFR 1.47 and 1.17(h)) \$ \_\_\_\_\_

Total Fees Enclosed \$ \_\_\_\_\_

**12. Method of Payment of Fees**

☐ Check in the amount of \$ \_\_\_\_\_

☐ Charge Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.  
A duplicate of this transmittal is attached.

**13. Authorization to Charge Additional Fees**

☐ The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Account No. \_\_\_\_\_;

☐ 37 CFR 1.16(a), (f) or (g) (filing fees)

☐ 37 CFR 1.16(b), (c) and (d) (presentation of extra claims)

☐ 37 CFR 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)

☐ 37 CFR 1.18 (application processing fees)

☐ 37 CFR 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR 1.311(b))

**14. Instructions As To Overpayment**

☐ credit Account No. \_\_\_\_\_

☒ refund

**15. Incorporation By Reference of Papers Identified Herein**

Applicant(s) hereby incorporate(s) by reference all papers which are identified in this New Application Transmittal.

16. Correspondence Address

Please use the following correspondence address for all communications:

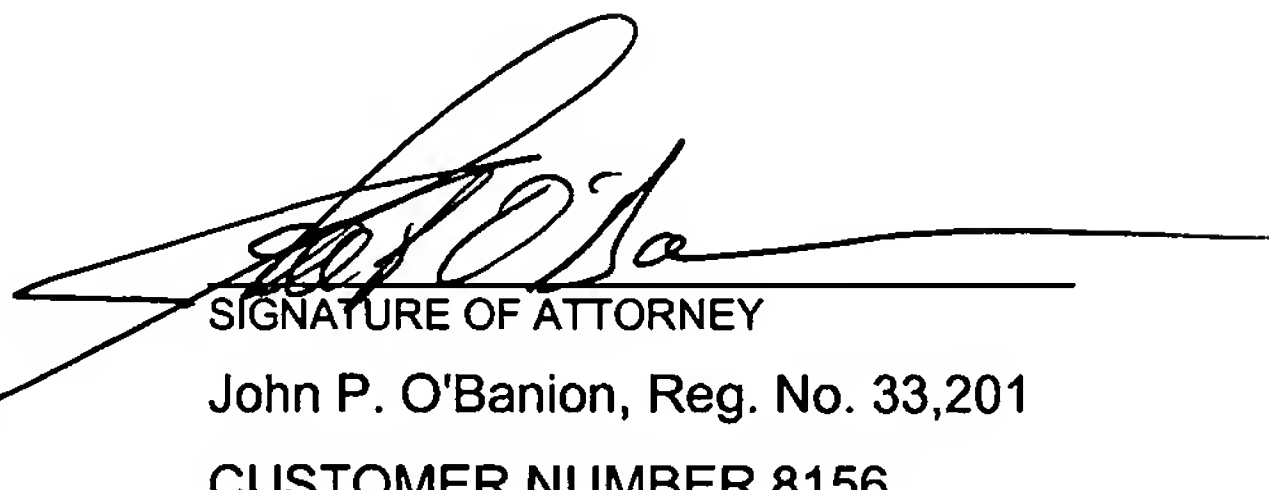
CUSTOMER NUMBER 8156

John P. O'Banion, Reg. No. 33,201  
O'BANION & RITCHEY LLP  
400 Capitol Mall, Suite 1550  
Sacramento, CA 95814  
(916) 498-1010

17. Signature of Attorney

Dated:

1/2/2004

  
SIGNATURE OF ATTORNEY  
John P. O'Banion, Reg. No. 33,201  
CUSTOMER NUMBER 8156

## CERTIFICATION UNDER 37 CFR 1.10

I hereby certify that the foregoing:

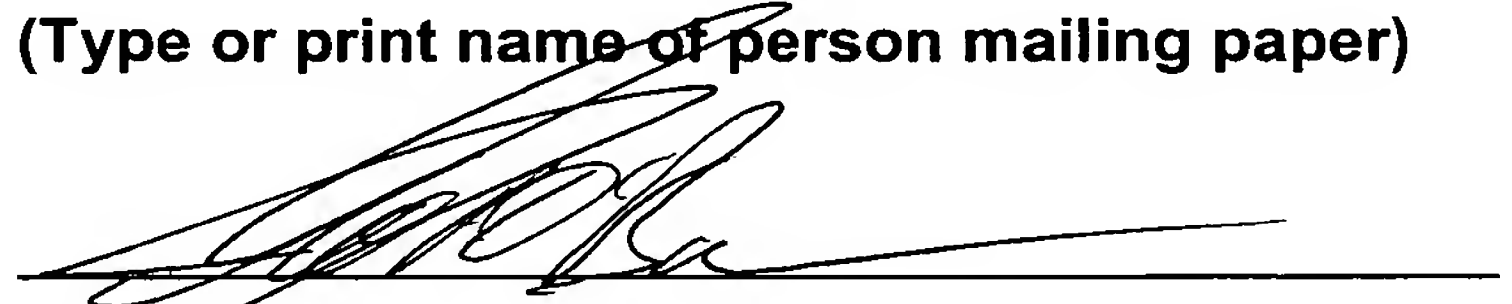
U.S. Patent Application

1. Specification (pages 1-28)
2. Claims (pages 29-36)
3. Abstract (page 37)
4. Drawings (sheets 1-8)

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in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number  
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Alexandria, VA 22313-1450.

JOHN P. O'BANION

(Type or print name of person mailing paper)

A handwritten signature in black ink, appearing to read 'John P. O'Banion', is written over a horizontal line.

(Signature of person mailing paper)